

Standards Committee	
Meeting Date	14 June 2022
Report Title	Member-officer protocol
EMT Lead	David Clifford
Head of Service	Head of Policy, Governance and Customer Services (Monitoring Officer)
Lead Officer	
Classification	Open
Recommendations	<p>The standards committee is asked to:</p> <ol style="list-style-type: none"> 1. Consider whether a member-officer protocol is something it would be minded to support, and if so whether the skeleton structure at Appendix I is a helpful starting point; and if so — 2. Consider how members and officers should be consulted on the content of the protocol as the drafting progresses.

1 Purpose of Report and Executive Summary

- 1.1 This report introduces a skeleton version of a member-officer protocol, the need for which was first discussed at a meeting of the standards working group in late March. The report seeks the views of standards committee members on the specific points the protocol would cover and how members and officers should be involved in the process of agreeing a final protocol.

2 Background

- 2.1 Most councils' constitutions include a member-officer protocol setting out the respective roles of members and officers and providing some elementary regulation of the relations between members and officers. While there is no legal requirement for councils to adopt such a protocol, Swale is unusual in not having one.
- 2.2 This was discussed by the standards working group at its inaugural meeting in March. The group comprises Cllrs Perkin (chair), Bowen, Gibson, Hunt, Jayes and McCall. It was provisionally agreed at that meeting that a protocol could be a useful addition to Swale's constitution, and that a paper should come to the standards committee to give this further consideration.

3 Proposals

- 3.1 There are no legal constraints on what a member-officer protocol can cover, but most include sections on roles, responsibilities and what members and officers

can expect of each other in terms of conduct and service levels, as well as sections covering more specific circumstances and functions.

- 3.2 There is clearly scope here for the protocol to become simply a restatement of rules which are already covered elsewhere in the constitution, for example in the member or officer codes of conduct or in sections dealing with procedural rules or access to information. The new constitution has been deliberately designed to minimise this type of duplication, in order primarily that all the rules relating to a given scenario are to be found as far as possible in one place, but also so that the piecemeal updates which will inevitably take place over time do not result in one section saying something which is in conflict with another section.
- 3.3 A protocol which simply restated rules to be found elsewhere would therefore not be desirable, but one which provided some elucidation of how rules in (primarily) the member and officer codes of conduct played out in the specific circumstances of the member-officer relationship could be very helpful. As an example, the member code of conduct will include a prohibition on bullying, but what constitutes bullying might be different when it is directed towards an officer to when it is directed towards another member or a member of the public.
- 3.4 The standards working group was clear that the process of adopting a protocol would need to be as inclusive as possible, and that it should not be about either members telling officers what it should say or the other way around. Rather, a meaningful level of consultation with both members and officers should take place so that both groups of people feel that the final protocol accurately covers what they believe the member-officer relationship should be.
- 3.5 With this in mind, the standards committee is now **recommended** to consider whether a member-officer protocol is something it would be minded to support, and if so whether the skeleton structure at Appendix I is a helpful starting point. Finally, the committee is recommended to consider how members and officers should be consulted on the content of any protocol as the drafting progresses.

4 Alternative Options

- 4.1 There is no obligation on the council to adopt a member-officer protocol, so the committee could choose to reject the proposal. However, most councils do include a protocol along these lines in their constitutions as a means of regulating the relations between members and officers. There is no legally mandated format for these protocols, so the specific content is for Swale's members and officers to agree.

5 Consultation Undertaken or Proposed

- 5.1 Consultation to date has taken place with the standards working group only. The group was clear that a meaningful level of consultation with members and officers would need to take place to ensure that both groups were comfortable with the way the protocol would regulate relations between them.

- 5.2 For reasons members will readily appreciate, it is generally not advisable to begin a consultation of this nature with a blank sheet of paper, so the intention is to produce a draft of a protocol, perhaps including some specific consultation questions, on which a consultation with both members and officers can then take place. The committee is invited to provide comments on this proposed approach.

6 Implications

Issue	Implications
Corporate Plan	The idea of a member-officer protocol supports the council's fourth priority of 'Renewing local democracy and making the council fit for the future'.
Financial, Resource and Property	None identified at this stage.
Legal, Statutory and Procurement	There is no legal obligation to adopt a member-officer protocol, but equally there are no specific legal constraints on what a protocol can cover.
Crime and Disorder	None identified at this stage.
Environment and Climate/Ecological Emergency	None identified at this stage.
Health and Wellbeing	None identified at this stage.
Safeguarding of Children, Young People and Vulnerable Adults	None identified at this stage.
Risk Management and Health and Safety	None identified at this stage.
Equality and Diversity	None identified at this stage.
Privacy and Data Protection	None identified at this stage.

7 Appendices

- Appendix I: First draft of skeleton protocol, including introductory sections and table of possible contents.

8 Background Papers

There are no background papers.

Protocol for Member/ Officer Relations

1. Introduction

- 1.1 Mutual trust and respect between Members and Officers is core to the Council's governance strategy and working culture. It is an essential partnership necessary for the effective and successful operation of the Council.

- 1.2 The [Member] Code of Conduct states "*The public have high expectations of us and entrust us to represent our local area, taking decisions fairly, openly, and transparently. We have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.*" Therefore, this Protocol supplements respectively the [Member] Codes of Conduct.

- 1.3 The Council has adopted Codes of Conduct for both officers and Members. The Protocol also seeks to reflect the principles underlying the respective Codes of Conduct which apply to Members and officers. The shared objective of these Codes is to enhance and maintain the integrity (real and perceived) of local government.

- 1.4 This Protocol guides Members and Officers of the Council in their relations with one another. Members and Officers have a responsibility

to act fairly, honestly, in good faith and in an impartial way to meet the specified objectives of the Council. Given the variety and complexity of such relations, this Protocol does not seek to be either prescriptive or comprehensive. It seeks simply to offer guidance on some of the issues, which most commonly arise. It is hoped however, that the approach, which it adopts to these issues, will serve as a guide to dealing with other issues.

2. General Principles

- 2.1. Members and Officers must always respect the roles and duties of each other. They must show respect in all their dealings by observing reasonable standards of courtesy, and by not seeking to take unfair advantage by virtue of their position.

- 2.2. Whilst Members and Officers are indispensable to one another, their responsibilities are distinct. Members are accountable to the electorate and serve only for as long as their term of office lasts. Legally, employees are employed by the Council and are accountable to it. Ultimately, they serve the Council as a whole and not any political group, combination of groups or any individual Member. Nonetheless, employees may properly be called upon to assist the deliberations of political groups and also to help individual Members in their different

roles. The Directors and Senior Officers have ultimate responsibility to ensure that the Council's responsibilities are implemented.

2.3. The Member Code of Conduct is based upon the [Seven Principles of Public Life](#) which also underpins this Protocol.

3. The Role of Members

4. The Role of Officers

5. Relationship between Members and Officers

6. The Council as an Employer

7. Political Groups and Officers

8. Members and wards

9. Officer / Committee Chairman Relationships

10. The Mayoralty

11. Protocol Conduct and Members Code of Conduct

11.1 Confidentiality

11.2 Media Relations

11.3 Use of Council's Facilities and Resources

11.4 Communications/ Correspondence

11.5 Administrative Support to Members

11.6 Members Access Information and Council's Documents

11.7 Constructive criticisms/ Complaints

11.8 Undue Pressures

11.9 Standards of Conduct

11.10 Disrepute

11.11 Impartiality of Officers

11.12 Protecting the Council's reputation

11.13 Disrepute

12. Complaints and Allegations of Breaches of this Protocol

13. Overseeing Compliance with this Protocol

14. Further Guidance